



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R05-OAR-2020-0518; FRL-10023-60-Region 5]

**Air Plan Approval; Wisconsin; Large Municipal Waste Combustors
Negative Declaration Withdrawal for Designated Facilities and
Pollutants**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving Wisconsin's request for withdrawal of the previously approved Large Municipal Waste Combustors (LMWC) Negative Declaration. The Wisconsin Department of Natural Resources (WDNR) submitted its LMWC Negative Declaration withdrawal on September 25, 2020, certifying that the State of Wisconsin has only one LMWC unit currently operating and requesting that the Federal Plan continue to apply to the single source in the State.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2020-0518. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on

the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19. We recommend that you telephone Margaret Sieffert, Environmental Engineer, at (312) 353-1151 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Margaret Sieffert, Environmental Engineer, Environmental Protection Agency, Region 5, 77 West Jackson Boulevard (AT-18J), Chicago, Illinois 60604, (312) 353-1151, sieffert.margaret@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

I. Background.

On September 25, 2020, WDNR submitted its LMWC negative declaration withdrawal, in which it certifies that there is one LMWC unit currently operating in Wisconsin. The only LMWC unit is at Xcel French Island, located in La Crosse, WI. Because there is only one source, WDNR is requesting that the previously approved negative declaration be withdrawn and that the Federal Plan continue to apply to the source.

On March 1, 2021 (86 FR 11916), EPA published a notice of proposed rulemaking (NPRM) proposing approval of Wisconsin's LMWC Negative Declaration withdrawal. The specific details of

Wisconsin's request and the rationale for EPA's approval are discussed in the NPRM and will not be restated here. EPA did not receive any comments on the proposed action.

II. What action is EPA Taking?

EPA is approving Wisconsin's request for withdrawal of a previously approved Negative Declaration and its request to amend 40 CFR part 62 to reflect WDNR's withdrawal. WDNR submitted its LMWC Negative Declaration withdrawal on September 25, 2020, certifying that there is only one LMWC unit, as defined under 40 CFR 60.31b, currently operating in the State of Wisconsin, and requested that the Federal Plan apply to the single source in the State. EPA understands that the extensive work that would be required by WDNR to prepare an approved State Plan would be disproportionate to the single affected source in Wisconsin, and proposed to approve the withdrawal and have the Federal Plan continue to apply to the known affected source.

In this action, EPA is finalizing its approval. EPA is also revising 40 CFR 62.12360 to reflect this withdrawal.

III. Statutory and Executive Order Reviews.

In reviewing section 111(d)/129 plan submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act (CAA). With regard to withdrawals for designated facilities received by EPA from states, EPA's role is to notify the public of the approval of the State's withdrawal and revise 40 CFR part 62 accordingly. Accordingly, this action merely notifies the public of EPA's approval for a

withdrawal of a previously approved LMWC negative declaration and does not impose additional requirements. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those

requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b) (1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b) (2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Administrative practice and procedure, Intergovernmental relations, Large municipal waste combustors, Reporting and recordkeeping requirements.

Dated: May 4, 2021.

Cheryl Newton,
Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, EPA amends 40 CFR part 62 as follows:

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 62.12360 is revised to read as follows:

§ 62.12360 Identification of plan.

On September 25, 2020, the Wisconsin Department of Natural Resources submitted a withdrawal letter to EPA certifying that there is only one Large Municipal Waste Combustor unit in the State of Wisconsin subject to the emissions guidelines at 40 CFR part 60, subpart Eb, and requested that the Federal Plan at subpart FFF of this part, apply.

[FR Doc. 2021-09808 Filed: 5/7/2021 8:45 am; Publication Date: 5/10/2021]